THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.640 of 2006

10th January 2006

Between:

1. D.Rahmathulla Khan, S/o.Rasool Khan, 40 years, Business, R/o.11/204, Bellary Road, Kadapa

And two others.

...PETITIONERS

AND

1. The Commissioner, Municipal Corporation of Kadapa, Kadapa District.

And two others.

...RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.640 of 2006

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus to declare the action of the respondents in dispossessing the petitioners from their respective premises for the purpose of road widening without following due process of law as illegal.

The learned counsel for the petitioners submits that the petitioners are the absolute owners and possessors of the different premises in Kadapa town and municipality. The Kadapa municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic, the Kadapa Municipal Corporation has decided to widen the roads, for which they have identified 26 roads in the entire Kadapa Municipal Corporation. The learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening

programme of the respondents and they have no objection for the said programme if their lands are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondents, without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, are threatening them to demolish the existing structures of the petitioners for the purpose of road widening.

The learned counsel for the petitioners further submits that the action of the respondents, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894, is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act ('the Act' for brevity).

This Court disposed of number of Writ Petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Sections 146 and 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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(V.ESWARAIAH, J)

10th January 2006

RRB